

REMARKS

Applicants have carefully studied the outstanding Office Action. The present amendment is intended to place the application in condition for allowance and is believed to overcome all of the objections and rejections made by the Examiner. Favorable reconsideration and allowance of the application are respectfully requested.

Applicants have canceled claims 18 - 23 without prejudice, and amended claims 10 – 14, 24 - 26 and 62 - 64 to more properly claim the present invention. No new matter has been added. Claims 10 – 17, 24 – 26 and 62 – 65 are presented for examination.

In Paragraph 2 of the Office Action, claims 19 and 21 have been objected to under 37 C.F.R. §1.75(c) as being of improper dependent form. Applicants have canceled claims 19 and 21 without acquiescence to the Examiner's reasons for rejection and respectfully submits that objection to those claim is thus rendered moot.

In Paragraphs 3 and 4 of the Office Action, claims 18 – 22 have been rejected under 35 U.S.C. §112 second paragraph as being indefinite. Applicants have canceled claims 18 - 22 without acquiescence to the Examiner's reasons for rejection and respectfully submits that rejection of those claim is thus rendered moot

In Paragraphs 5 and 6 of the Office Action, claims 10 – 15, 23 and 26 have been rejected under 35 U.S.C. §102(b) as being anticipated by Brown, U.S. Patent No. 5,794,219 ("Brown"). Applicants have canceled claim 23 without acquiescence to the Examiner's reasons for rejection and respectfully submits that rejection of that claim is thus rendered moot.

In Paragraphs 7 and 8 of the Office Action, claims 16 – 22 and 62 – 65 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of Walker et al., U.S. Patent No. 5,862,223 ("Walker"). Applicants have canceled claims 18 - 22 without acquiescence to the Examiner's reasons for rejection and respectfully submits that rejection of those claims is thus rendered moot.

It appears that the Examiner has not addressed claims 24 and 25. Applicants think that the Examiner's intent may have been to reject claims 10 – 15 and 18 – 26 under 35 U.S.C. §102(b), and to reject claims 16, 17 and 62 – 65 under 35 U.S.C. §103(a), since this latter group of claims include the limitation of additional rounds.

**Distinctions between Claimed Invention and U.S. Patent No. 5,794,219 to Brown
in view of U.S. Patent No. 5,886,223 to Walker et al.**

The present invention concerns a system and method for a configurable auction, to operate on-line auctions according to a selectable auction model or a combination of selectable auction models. Using the present invention, auction modules can be “plugged into” an on-line transaction system, to govern the behavior of the transaction system in accordance with a custom auction model. The present invention also describes novel types of auction models for use in on-line auctions.

Specifically, one such auction module, module 58 of FIG. 2, is based on a “team auction” model, whereby individual participants belong to teams and the individual bids of members of a team are aggregated into a team bid. Another such auction module, module 56 of FIG. 2 is based on a “tournament auction” model, whereby multiple rounds of bidding are held, and only a subset of bidders survive from one round to the next.

Brown describes a on-line auction whereby bidding groups compete for an item being auctioned by pooling individual bids, each individual bid being designated as intended for a specific bidding group, as illustrated in FIG. 6 of Brown. Brown describes a system that includes three types of computers: (i) a central computer administered by an auction company for operating an on-line auction among registered bidders; (ii) an account creation computer administered by an account company for registering bidders, creating accounts for them, and charging their financial institutions when the bidders have made bids for a winning bidding group; and (iii) a plurality of remote computers administered by individual bidders for presenting bids to the central computer.

Walker describes an expert-matching system to find an expert having appropriate qualifications to response to a specific problem presented by an end user. Walker was cited by the Examiner regarding the limitations in claims 16 – 22 and 62 – 65 that involve multiple rounds of auction bids.

The rejections of claims 10 – 17, 24 – 26 and 62 - 65 in paragraphs 5 - 8 of the Office Action will now be dealt with specifically.

Regarding amended independent claims 10 and 62, applicants respectfully submit that the limitation in claims 10 and 62 of

"a mechanism module operatively coupled with said interface module, to interactively drive said transaction module so as to perform transactions according to at least one auction rule defined by said mechanism module"

is neither shown nor suggested in Brown and Walker.

Because claims 11 – 17 and 24 - 26 depend from claim 10 and include additional features, applicants respectfully submit that claims 11 – 17 and 24 - 26 are not anticipated or rendered obvious by Brown, Walker or a combination of Brown and Walker. Similarly, because claims 63 and 64 depend from claim 62 and include additional features, applicants respectfully submit that claims 63 and 64 are not anticipated or rendered obvious by Brown, Walker or a combination of Brown and Walker.

Accordingly claims 10 – 17, 24 - 26 and 62 - 64 are deemed to be allowable.

Regarding independent claim 65, applicants respectfully submit that the limitation in claim 65 of

"admit to each of a subsequent round of bidding a subset of bidders from a previous round responsive to a bid value placed by each of said plurality of bidders, wherein said subset of bidders are assessed a payment in response to being admitted in each subsequent round"

is neither shown nor suggested in Brown and Walker.

Applicants note that in rejecting claim 65 the Examiner indicates that it would have been obvious to recognize the advantages of the multi-round auction to provide the bidders with a more than only one shot to acquire a particular good or service. Applicants respectfully submit that the above limitation, as described at page 22, line 21 – page 23, line 8 of the present specification, is non-conventional and is not described in Walker.

Accordingly claim 65 is deemed to be allowable.

Since applicants have amended independent claims 10 and 62 by including limitations from original claims 1 – 9, applicants wish to specifically address the rejections of claims 1 - 9 in that previous Office Action dated October 4, 2002. Although those claims are canceled, their limitations are incorporated into pending claims 10 and 62, so applicants present the following discussion to aid the

Examiner and to support the fact that claims 1-9 were not canceled due to the existence of Shoham and Ausubel.

Shoham describes a flexible online trading system, which can be programmed so as to combine a set of trading primitives into a custom script, referred to generically as CommerceScript, for an auction specification (Shoham / col. 4, lines 47 – 51; col. 8, line 63 – col. 9, line 8). As shown in FIG. 1 of Shoham, the online trading system includes inter alia (i) a market-specification console (MSC), used to design market protocols; (ii) a programmable auction server (PAS) which conducts on-line auctions according to market protocols designed by the MSC, including accepting bids, clearing prices, and notifying traders of market events; and (iii) and a universal trading console which enables traders to trade on the PAS.

In the previous Office Action, the Examiner cited the PAS of Shoham regarding “*a transaction module operatively coupled for communication to the interface module configured to manage transactions associated with moves made by the seller and bidder in conjunction with a sale of an item by the seller*”; and cited the MSC of Shoham regarding “*a mechanism module coupled for communication to the transaction module, the mechanism module defining at least one auction rule*”.

An important distinction between the present invention and Shoham can be appreciated by comparing FIG. 1 of Shoham with FIG. 1 of the present invention. In Shoham, the MSC is not directly connected to the PAS, whereas in the present invention, the mechanism module is directly coupled to the transaction module. Thus, as described at col. 5, lines 20 - 27 of Shoham, the design of market is run off-line by a market designer, and then uploaded to the auction system for implementation. In contrast, the present specification describes an architecture in which the mechanism module is directly coupled to the transaction module. This, as described at page 11, lines 10 – 12, at page 27, lines 14 – 18 and in claims 10 and 62 of the present specification, the mechanism module may be consulted dynamically at run-time by the transaction module.

As such, the present invention has great advantage over the prior art, in that auction mechanisms themselves may be interactively adjusted at run-time.

Applicants have accordingly amended independent claims 10 and 62 to further clarify the distinction of the present invention over Shoham.

Ausubel describes computer-based auctions, and was cited by the Examiner regarding the limitation of revealing and sealing of bids in original claim 9.

Regarding amended independent claims 10 and 62, applicants respectfully submit that the limitation in claims 10 and 62 of

"a mechanism module operatively coupled with said interface module, to interactively drive said transaction module so as to perform transactions according to at least one auction rule defined by said mechanism module"

is neither shown nor suggested in Shoham and Ausubel.

Because claims 11 – 17 and 24 - 26 depend from claim 10 and include additional features, applicants respectfully submit that claims 11 – 17 and 24 - 26 are not anticipated or rendered obvious by Shoham, Ausubel or a combination of Shoham and Ausubel. Similarly, because claims 63 and 64 depend from claim 62 and include additional features, applicants respectfully submit that claims 63 and 64 are not anticipated or rendered obvious by Shoham, Ausubel or a combination of Shoham and Ausubel.

Accordingly claims 10 – 17, 24 - 26 and 62 - 64 are deemed to be allowable.

Regarding independent claim 65, applicants respectfully submit that the limitation in claim 65 of

"admit to each of a subsequent round of bidding a subset of bidders from a previous round responsive to a bid value placed by each of said plurality of bidders, wherein said subset of bidders are assessed a payment in response to being admitted in each subsequent round"

is neither shown nor suggested in Shoham and Ausubel.

Accordingly claim 65 is deemed to be allowable.

Support for Amended Claims in Original Specification

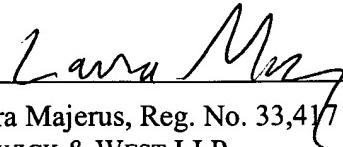
Claims 10 and 62 have been amended so as to incorporate the limitations of original claims 7 (team auction) and 6 (tournament auction), respectively, and so as to include the limitation that the mechanism module interactively drives the transaction module. Such limitation is described in the original specification at page 11, lines 10 – 12, and at page 27, lines 14 – 18.

Other claim amendments re-phrase some of the original claim terminology, for the sake of improved clarity.

For the foregoing reasons, applicants respectfully submit that the applicable objections and rejections have been overcome and that the claims are in condition for allowance.

Respectfully submitted,

Dated: November 10, 2005

By: 
Laura Majerus, Reg. No. 33,417
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Phone: (650) 335-7152
Fax: (650) 938-5200